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Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

STEVEN FERNANDO PENA
904 Silver Spur Road, #485
Rolling Hills Estates, CA 90274

Respiratory Care Practitioner License No. 15392,
Respondent.

Case No. R-2029

OAH No. L-2006080403

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and the responsibility of the Respiratory Care Board of California (Board), Department of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender of License and Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the Respiratory Care Board of California. Complainant brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Adrian K. Pantan, Deputy Attorney General.

2. Steven Fernando Pena (Respondent) is represented in this proceeding by attorney Edgardo Gonzalez, whose address is Law Offices of Edgardo Gonzalez, 1300 Clay Street, Suite 600, Oakland, California 94612.

3. On or about August 24, 1992, the Board issued Respiratory Care Practitioner License No.15392 to Respondent. The license was in full force and effect at all times relevant to the charges brought in Accusation No. R-2029 and will expire on April 30, 2008, unless renewed.

JURISDICTION

4. Accusation No. R-2029 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 30, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. R-2029 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. R-2029. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. R-2029, agrees that cause exists for discipline and hereby surrenders his Respiratory Care Practitioner License No. 15392 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Respiratory Care Practitioner License without further process.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Respiratory Care Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that the Board's staff and counsel for Complainant may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender of License and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 15392, issued to Respondent Steven Fernando Pena, is surrendered and accepted by the Board.

14. The surrender of Respondent's Respiratory Care Practitioner License and

1 the acceptance of the surrendered license by the Board shall constitute the imposition of
2 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
3 become a part of Respondent's license history with the Board.

4 15. Respondent shall lose all rights and privileges as a Respiratory Care
5 Practitioner in California as of the effective date of the Board's Decision and Order.

6 16. Respondent shall cause to be delivered to the Board both his license and
7 wallet certificate on or before the effective date of the Decision and Order.

8 17. Respondent fully understands and agrees that if he ever files an application
9 for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a
10 petition for reinstatement. Respondent must comply with all the laws, regulations and
11 procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all
12 of the charges and allegations contained in Accusation No. R-2029 shall be deemed to be true,
13 correct and admitted by Respondent when the Board determines whether to grant or deny the
14 petition.

15 18. Respondent shall pay the Board its costs of investigation and enforcement
16 in the amount of \$10,000.00 prior to issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Edgardo Gonzalez. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board of California.

DATED: October 2, 2006

Original signed by:
STEVEN FERNANDO PENA
Respondent

I have read and fully discussed with Respondent Steven Fernando Pena the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: October 12, 2006

Original signed by:
EDGARDO GONZALEZ
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Respiratory Care Board of California, Department of Consumer Affairs.

DATED: October 13, 2006

BILL LOCKYER, Attorney General
of the State of California

Original signed by:
ADRIAN K. PANTON
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2029

STEVEN FERNANDO PENA
904 Silver Spur Road, #485
Rolling Hills Estates, CA 90274

Respiratory Care Practitioner License No. 15392,
Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Respiratory Care Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 18, 2006.

It is so ORDERED December 8, 2006.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT, PRESIDENT
RESPIRATORY CARE BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS